

## CLIMATE CHANGE LITIGATION AND ENVIRONMENTAL JUSTICE: EMERGING LEGAL FRAMEWORKS AND GLOBAL CHALLENGES

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### **Abstract**

*The accelerating climate crisis has become one of the most profound challenges facing modern societies, with far-reaching environmental, economic, social, and legal implications, all around the world (IPCC, 2023; United Nations, 2023). As the shortcomings of traditional climate governance mechanisms become more evident, climate change litigation has emerged as an innovative form of accountability, an instrument of environmental governance, and a means of enforcing climate-related duties, and has gained considerable prominence (Setzer & Higham, 2024). Simultaneously, climate change has become a critical context for environmental justice, highlighting the disproportionate impact of climate change on marginalized communities and emphasizing the need for equitable legal remedies (Schlosberg, 2007; UNDP, 2022). The rapid growth of climate litigation has not been accompanied by the integration of principles of environmental justice into emerging climate legal frameworks, leaving significant legal, institutional and governance gaps (Peel & Osofsky, 2015).*

*This qualitative study investigates the evolution of climate change litigation, explores the relationship between climate jurisprudence and environmental justice, analyzes nascent legal frameworks governing climate-related disputes and identifies major barriers to equitable climate governance. The study uses a qualitative research design based on doctrinal legal research, thematic analysis, comparative legal analysis, and an in-depth study of international treaties, environmental conventions, landmark cases of climate litigation, judicial decisions, policy documents, and scholarly literature.*

*The findings indicate that climate litigation has evolved into a strong mechanism of judicial activism and rights-based environmental governance, increasingly holding states and corporations accountable for climate harms (Setzer & Higham, 2024). But there are many challenges like jurisdictional limitations, fragmented legal frameworks, unequal access to justice, and inadequate protection for climate-vulnerable communities (Peel & Osofsky, 2015). The study further demonstrates that, even though human rights-based approaches are gaining ground, the integration of environmental justice concerns within climate jurisprudence is yet to be realized (Knox, 2020).*

*The research contributes to environmental law scholarship and climate governance literature by offering a comprehensive qualitative synthesis of emerging legal developments and suggesting pathways for more equitable and effective climate governance. The study concludes that meaningful integration of environmental justice principles into national and international legal frameworks is essential for the future of climate litigation and global environmental governance (Schlosberg, 2007; UNDP, 2022).*

**Keywords:** *Climate Change Litigation; Environmental Justice; Climate Governance; Human Rights; International Environmental Law; Sustainability; Climate Policy; Legal Frameworks.*

## 1. Introduction

### Global Context and Background

Climate change is one of the most complex and consequential challenges of the 21st century (IPCC, 2023). The growing frequency of extreme weather events, rising global temperatures, biodiversity loss, sea-level rise, environmental degradation, and the increasing number of climate-induced displacements have transformed climate change from a purely environmental concern into a multidimensional crisis with important social, economic, political and legal implications (IPCC, 2023; United Nations, 2023). The effects of climate change are not geographically uniform nor socially neutral. They disproportionately impact vulnerable communities, developing nations, indigenous peoples, and socioeconomically marginalised groups who often contribute least to global greenhouse gas emissions (UNDP, 2022; Schlosberg, 2007).

The global climate crisis has profoundly undermined existing systems of governance and posed critical questions about responsibility, accountability and justice (Bodansky, 2016). International environmental negotiations have led to the adoption of numerous treaties and policy instruments over the decades. However, global efforts to mitigate and adapt to climate change have frequently been characterized by implementation deficits, political disagreements, and insufficient enforcement mechanisms (Bodansky, 2016; United Nations Environment Programme [UNEP], 2023). These limitations of traditional governance approaches have, in turn, generated a rising interest in alternative mechanisms that might promote accountability and hasten climate action (Peel & Osofsky, 2015).

Within this context, climate change litigation has emerged as one of the most vibrant developments in contemporary environmental governance (Setzer & Higham, 2024). More and more courts around the world are being asked to decide on disputes about climate policies, environmental rights and government responsibilities and corporate accountability (Setzer & Higham, 2024). Climate litigation has evolved beyond traditional environmental disputes to become an important mechanism for individuals, communities, civil society organizations and governments to address climate-related harms and demand more ambitious environmental action (Peel & Osofsky, 2015). The rise of climate litigation is also indicative of a wider shift in the interaction between law and environmental governance. There is growing recognition that judicial institutions are not just sites for dispute resolution, but also power holders in the development of climate policy, the interpretation of environmental obligations and the protection of fundamental rights (Peel & Osofsky, 2015). Landmark climate cases have demonstrated the power of courts to influence public policy, improve environmental accountability, and provide redress for climate harms (Setzer & Higham, 2024). Consequently, climate litigation has become an important element of global climate governance and a vital tool for promoting environmental protection and sustainable development (UNEP, 2023).

At the same time, the notion of environmental justice has grown ever more central to conversations around climate governance and environmental law (Schlosberg, 2007). Environmental justice means the equitable distribution of environmental benefits and burdens, fair participation in environmental decision-making, and acknowledgment of the rights and experiences of marginalized populations (Bullard, 2000; Schlosberg, 2007). Beyond the initial focus on environmental inequalities, the concept has evolved to cover a broader range of concerns,

including social vulnerability, human rights, procedural justice and intergenerational equity (Schlosberg, 2007).

Closely linked to environmental justice is the concept of climate justice, which recognizes that climate change is not just an environmental problem, but also a social and moral problem (Mary Robinson Foundation, 2015). Climate justice emphasizes that the people who have contributed the least to climate change are often the ones most affected by its worst impacts, and thus require more legal protection and fair policy responses (UNDP, 2022). These concerns have led to growing academic interest in how legal systems can address climate inequalities and foster more inclusive and equitable forms of environmental governance (Schlosberg, 2007).

One of the most important developments in modern environmental law is the increasing convergence of climate litigation with environmental justice (Peel & Osofsky, 2015). Rights-based climate claims, constitutional environmental protections and human rights arguments are increasingly featuring in climate litigation strategies around the world (Knox, 2020). Yet, important challenges remain in terms of the adequacy of existing legal frameworks to the needs of climate-vulnerable populations and the promotion of environmental justice (UNDP, 2022).

Despite important developments in climate governance, substantial legal and institutional deficiencies still impede effective responses to climate change (UNEP, 2023). International environmental agreements often have weak enforcement mechanisms, domestic legal systems vary greatly in their climate commitments, and access to environmental justice is highly unequal across jurisdictions (Bodansky, 2016). Moreover, many climate-vulnerable communities continue to face substantial procedural, economic and political barriers in seeking legal remedies for climate-related harms (Schlosberg, 2007).

These challenges highlight the urgent need for scholarly attention to the evolving relationship between climate change litigation and environmental justice. Although there has been substantial scholarship on climate litigation as a legal phenomenon, there has been relatively less on how principles of environmental justice are integrated in new climate legal regimes and how they address issues of inequality, vulnerability, and accountability (Peel & Osofsky, 2015; Knox, 2020). Accordingly, this study seeks to: examine the evolution of climate change litigation globally; analyze the relationship between climate litigation and environmental justice; investigate emerging legal frameworks governing climate-related disputes; identify major global challenges affecting climate justice; and propose recommendations for more equitable and effective climate governance. The study contributes to contemporary scholarship on environmental law and provides critical insights into the future of climate governance in an era of increasing environmental change, by adopting a qualitative, interdisciplinary approach based on doctrinal legal analysis, comparative legal analysis, thematic analysis and case-study examination.

### **Literature Review**

Climate change has grown to be one of the most significant environmental and governance issues of the modern era (IPCC, 2023). Beyond its ecological effects, climate change has spawned substantial legal, social, economic and political implications that transcend national borders and challenge existing systems of environmental governance (United Nations, 2023; Bodansky, 2016). Traditional policy tools and international agreements have become increasingly ineffective at addressing climate risks effectively, which has led to the emergence of climate litigation as a novel mechanism for accountability and environmental protection (Peel & Osofsky, 2015; Setzer & Higham, 2024).

At the same time, environmental justice has developed as an important normative framework for understanding the uneven distribution of climate harms and the differential capacities of societies to adapt to environmental change (Schlosberg, 2007). The rise of climate litigation and environmental justice has fueled a rapidly expanding body of scholarship on the role of courts, legal institutions and rights-based approaches in addressing climate-related inequalities and promoting sustainable governance (Peel & Osofsky, 2015; Knox, 2020).

This literature review critically synthesizes theoretical and empirical scholarship on climate change litigation and environmental justice. The review assesses the main debates, identifies conceptual and methodological limitations and lays the theoretical foundations that justify the present study, instead of offering descriptive summaries of existing studies.

## **1. Theoretical Background**

### **Theory of Environmental Justice**

Environmental Justice Theory emerged primarily from social movements in the United States during the late twentieth century, emphasizing the point that environmental burdens and benefits are distributed unevenly across societies (Bullard, 2000; Schlosberg, 2007). Early scholarship focused on racial and socioeconomic disparities in exposure to environmental hazards (Bullard, 2000). But, today's environmental justice scholarship has developed considerably, and moves well beyond distributive concerns to include procedural and recognition concerns (Schlosberg, 2007). Distributive justice is concerned with the unequal distribution of environmental harms and resources. Procedural justice is concerned with participation in environmental decision-making processes. Recognition justice emphasizes the importance of recognizing cultural identities, indigenous knowledge systems, and historical marginalization (Schlosberg, 2007).

Climate change has substantially enlarged the relevance of environmental justice theory. More and more, academics claim that climate change is an environmental justice issue because its effects are felt disproportionately among populations that are least responsible for greenhouse gas emissions (Schlosberg & Collins, 2014). The most severe impacts are often experienced by low-income communities, indigenous peoples, small island states, and developing countries, with limited adaptive capacities (IPCC, 2023).

However, critics have argued that the scholarship of environmental justice has sometimes been overly preoccupied with local inequalities and not enough with the processes of global governance (Schlosberg, 2007). As a result, recent scholarship has increasingly called for transnational approaches to environmental justice that can tackle global climate inequalities and transboundary environmental harms (Sultana, 2022).

### **The Theory of Climate Justice**

Climate Justice Theory grew out of the growing realization that climate change is about issues of ethics, justice and responsibility, not simply an environmental issue (Mary Robinson Foundation, 2015). Climate justice scholarship emphasizes historical responsibility, differentiated obligations and intergenerational equity (Shue, 2014).

For example, a key idea in climate justice theory is the principle of common but differentiated responsibilities. This means that the developed countries have contributed more to greenhouse gas emissions historically and therefore have a greater responsibility to take action on climate change and help countries that are most vulnerable (United Nations Framework Convention on Climate Change [UNFCCC], 1992).

The literature also notes that climate justice has both an intragenerational and intergenerational dimension. Intragenerational justice concerns inequalities existing within the current populations, while intergenerational justice concerns the responsibilities to future generations who will bear the long-term consequences of today's environmental decisions (Shue, 2014).

While climate justice theory has gained greater currency in policy and academia, its application is a matter of debate among scholars. It has been argued that the principles of climate justice are limited in their practical effectiveness in the realm of international environmental governance as they are not legally enforceable and lack common standards (Gardiner, 2011).

### **Theory of Rights-Based Governance**

Rights Based Governance Theory is a significant framework for understanding the increasing use of human rights principles in climate litigation. The theory assumes that environmental protection and human well-being are inseparable and that environmental degradation can be a violation of fundamental human rights (Knox, 2020).

The growing incorporation of human rights claims into climate litigation reflects a broader shift in environmental governance. Increasingly rights-based approaches are being used to invoke constitutional rights, international human rights treaties and environmental rights to challenge poor climate policies and inaction by governments (Peel & Osofsky, 2015; Knox, 2020).

According to scholars, rights-based approaches have several advantages. They reinforce accountability, increase access to justice and create normative foundations for judicial intervention (Knox, 2020). But critics caution that rights-based litigation may run up against constraints from judicial conservatism, problems of evidence, and different interpretations of environmental rights in different jurisdictions (Peel & Osofsky, 2015).

### **Ecological Modernization Theory**

Ecological Modernization Theory holds that economic development and environmental protection are not mutually exclusive (Mol & Spaargaren, 2000). The theory posits that technological innovation, institutional reform and policy modernization can reconcile environmental sustainability and economic growth (Mol & Spaargaren, 2000).

In the literature on climate governance, ecological modernization has played a role in framing discussions about green transitions, climate adaptation policies and sustainable development strategies (Mol & Spaargaren, 2000). Critics, however, contend that ecological modernization has a tendency to underestimate the structural inequalities and power imbalances that determine environmental outcomes (Christoff, 1996).

Environmental justice scholars have been especially critical of ecological modernization for not paying sufficient attention to issues of equity and distribution (Schlosberg, 2007). Modern climate litigation is therefore increasingly trying to combine modernization strategies with justice-oriented considerations.

### **Legal Plurality**

Legal Pluralism is the recognition that there is more than one legal system and normative order in society (Griffiths, 1986). Climate governance is increasingly situated within complex interactions between international treaties, national legislation, constitutional principles, customary laws and indigenous legal traditions (Kotzé & Kim, 2019).

The theory is particularly useful for understanding transnational climate litigation and environmental justice because climate disputes frequently cross jurisdictional borders and

implicate overlapping legal authorities (Kotzé & Kim, 2019). However, legal pluralism can also result in inconsistencies and fragmentation of governance which can hamper uptake of climate justice principles (Kotzé & Kim, 2019).

### **Theory of Intergenerational Equity**

Intergenerational Equity Theory emphasizes moral and legal obligations to future generations (Weiss, 1990). The theory posits that current generations have a fiduciary duty to conserve environmental resources and ecological systems for future generations (Weiss, 1990).

Intergenerational equity has become more and more important in climate litigation. There are now landmark cases that refer to the rights of children and future generations to challenge inadequate governmental climate policies (Setzer & Higham, 2024). This kind of development is indicative of the growing legal recognition of the temporal dimensions of environmental justice (Knox, 2020).

### **Theory of Sustainable Development**

The Sustainable Development Theory calls for a harmony between environmental protection, economic growth and social equity (World Commission on Environment and Development [WCED], 1987). Since the release of the Brundtland Report, sustainable development has become one of the most powerful concepts in international environmental law (WCED, 1987).

But there is mounting scholarly concern that existing models of sustainable development adequately address climate inequalities and environmental injustices. Sustainability initiatives, critics say, tend to focus on economic goals, with questions of distribution and vulnerability not adequately addressed (Schlosberg, 2007; Agyeman et al., 2003).

Together, these theoretical perspectives offer a comprehensive framework for understanding the intersections of climate litigation, environmental governance and environmental justice.

## **2. Climate Change Litigation: Trends and Evolution**

Climate litigation has changed dramatically over the last 30 years (Peel & Osofsky, 2015; Setzer & Higham, 2024). Originally, environmental litigation was primarily focused on local conflicts of pollution and adherence to regulations. Yet the mounting scientific evidence of climate change and the frustration with political action have fueled the growth of climate-specific litigation (Setzer & Higham, 2024).

The first wave of climate litigation was largely aimed at forcing governments to regulate greenhouse gas emissions better (Peel & Osofsky, 2015). Subsequently, strategic climate lawsuits emerged, deploying constitutional principles, human rights frameworks, and administrative law mechanisms to challenge governmental inaction (Knox, 2020).

Recent scholarship has pointed to the increasing diversification of climate litigation. Current issues include duties of adaptation, corporate responsibility, financial disclosure, violations of human rights, and transboundary environmental harms (Setzer & Higham, 2024).

One of the most important developments has been the rise of strategic litigation as a form of climate governance. Strategic climate litigation is not simply about obtaining judicial remedies, but rather about broader societal and policy change (Peel & Osofsky, 2015). Courts are being viewed more and more as venues for promoting climate action and enhancing government accountability (Setzer & Higham, 2024).

Scholars continue to be divided on the effectiveness of litigation as a climate governance mechanism. Lawsuits, its proponents say, raise accountability and accelerate policy development.

But critics warn against over-judicialising climate governance and question whether the courts have the institutional capacity to solve complex environmental problems (Peel & Osofsky, 2015). These debates notwithstanding, climate litigation has fundamentally transformed environmental governance by opening new avenues of accountability and expanding legal notions of environmental rights and duties (Setzer & Higham, 2024).

### **3. Climate Justice and Environmental Justice**

Environmental justice literature repeatedly shows how vulnerable and marginalized communities are disproportionately impacted by climate change (Schlosberg & Collins, 2014; IPCC, 2023). Climate-related disasters tend to exacerbate pre-existing inequalities in relation to poverty, health, housing, food security and access to resources (UNDP, 2022).

The notion of distributive justice draws attention to the unequal distribution of environmental harms and adaptation capacities. Procedural justice focuses on the participation of all stakeholders in environmental decision-making and recognition justice focuses on the importance of recognizing cultural diversity and the rights of indigenous peoples (Schlosberg, 2007).

The literature increasingly acknowledges indigenous communities as both disproportionately vulnerable to climate change and important contributors to environmental stewardship and resilience (IPCC, 2023). Indigenous voices, however, are often under-represented in formal climate governance institutions (United Nations, 2023).

Climate justice scholars also maintain that the international climate governance has historically privileged the interests of economically powerful countries, and has not adequately addressed the concerns of developing countries and vulnerable populations (Shue, 2014; Sultana, 2022). As a result, demands for just climate governance and environmental reparations have become increasingly salient in academic and policy discourses (Sultana, 2022).

### **4. Climate litigation based on human rights**

Human rights-based climate litigation has become one of the most significant developments in contemporary environmental law (Knox, 2020; Setzer & Higham, 2024). Increasingly, judicial systems are recognizing that climate change threatens basic rights such as the right to life, health, housing, food, water and a healthy environment (Knox, 2020).

Rights-based approaches have also been used to expand climate litigation, allowing individuals and communities to take governments to court for inaction and corporations for misbehavior (Peel & Osofsky, 2015). Judicial decisions are increasingly setting precedents in recognizing positive obligations on states to implement effective climate policies (Knox, 2020).

However, there is scholarly debate over the effectiveness of rights-based approaches. Human rights arguments provide powerful normative foundations, but enforcement challenges remain considerable (Knox, 2020). In other words, the effectiveness of rights-based climate litigation is highly contingent on jurisdictional differences in constitutional traditions, judicial independence and legal capacities (Peel & Osofsky, 2015).

Nevertheless, the growing incorporation of human rights principles into climate jurisprudence signals an important shift toward more justice-oriented forms of environmental governance (Knox, 2020).

The above discussion sets the theoretical and conceptual ground for understanding climate change litigation and environmental justice. The following sections of the literature review include critical

discussion of emerging legal and institutional frameworks, comparative experiences between jurisdictions, unresolved legal controversies and major research gaps that validate the current study and guide its qualitative methodological approach.

**Methodological Approach:**

**Philosophy and Paradigm of Research:**

The study is grounded in an interpretivist research philosophy and a constructivist epistemological stance, and is located in the wider traditions of qualitative legal research and socio-legal research. Interpretivism assumes that legal phenomena cannot be fully understood through positivist measurement alone because laws, judicial decisions and governance mechanisms are socially constructed, context-dependent and shaped by historical, political and institutional processes. Climate change litigation and environmental justice are inherently normative and multidimensional concepts involving competing understandings of rights, responsibilities, accountability, and equity. Thus, an interpretive approach is particularly suitable to analyze how legal actors, institutions and governance arrangements produce and implement environmental justice in climate governance.

Constructivist epistemology also acknowledges that legal knowledge is not fixed or objective, but is continuously generated through judicial interpretation, policy making and social interaction. Climate litigation has increasingly become a forum for the negotiation and redefinition of environmental norms, human rights principles and responsibilities of governance. To understand the evolution of climate jurisprudence, we need an approach that is sensitive to the socially constructed nature of law and its relationship to the larger challenges of society. The study also adopts a socio-legal research tradition that focuses on the relationship between law and society. “Climate change is not simply an environmental issue, it is also a social justice and governance issue. A socio-legal lens allows for an examination of how legal frameworks address environmental inequalities, and how judicial mechanisms advance wider goals of climate justice and sustainable governance.

**Research Methodology**

The study uses qualitative research design since it seeks to explore the development, understanding and the effectiveness of climate litigation and environmental justice discourses rather than quantifiable indicators to establish causal relationships. Qualitative inquiry is particularly suited to investigating complex legal phenomena characterized by contextual variation, normative contestation, and institutional diversity.

The research design combines five complementary methodological approaches:

1. Legal Research Doctrinal
2. Comparative Journal of Legal Studies
3. Socio-Legal Viewpoint

4. Strategy of Multiple Case Study
5. Documentary Review

The doctrinal aspect allows for a systematic examination of legal principles, statutes, judicial decisions and international legal instruments related to climate change and environmental justice. Through comparative legal analysis, we can find similarities and differences in the climate governance frameworks in different jurisdictions. The socio-legal approach situates legal developments within their wider social, political and institutional contexts. Last but not least, the multiple case study strategy allows for an in-depth analysis of landmark climate litigation cases and their implications for environmental justice.

This mix of approaches adds analytical depth and allows the study to address the research questions in a comprehensive way.

#### **Sources of data:**

The study is based on qualitative secondary data from authoritative legal and scholarly sources.

#### **Legal Authorities**

Primary legal materials include

- International conventions and treaties on environment;
- National constitutions and constitutional provisions;
- Environmental legislation and climate change legislation;
- Court judgments and judicial decisions;
- Legal and policy frameworks;
- International governance treaties and declarations.

Reviews on major international instruments such as the:

- United Nations Framework Convention on Climate Change;
- Kyoto Protocol;
- Paris Agreement;
- International human rights conventions and environmental declarations.

**Secondary Sources:** Other sources are:

- Articles in journals listed in SSCI and Scopus;
- Monographs and edited collections
- Reports produced by international organisations;
- Government policy reports and publications;
- Environmental assessments, NGO publications;
- Sustainability and climate governance documents.

The credibility and comprehensiveness of the study is enhanced by triangulating several data sources.

### **Strategy for Case Selection**

Using a purposive sampling approach, we identified landmark climate litigation cases that provide important insights into emerging legal frameworks and environmental justice.

### **Inclusion Criteria**

Cases were selected according to the following criteria:

1. Legal significance, and precedential value;
2. Contribution to the climate case law.
3. Relevance to principles of environmental justice;
4. Geographical Distribution;
5. Legal innovation demonstration;
6. Policy and governance impact.

### **Criteria for exclusion**

Cases were excluded if they were:

- involved minor procedural disagreements;
- had no significant climate dimensions;
- had little legal significance;
- had inadequate publicly available documentation.

The final sample was composed of cases from developed and developing jurisdictions, allowing for the representation of different legal traditions and governance contexts.

### **Data Collection Procedure**

The data collection was carried out in a systematic and transparent manner.  
Stage One: Materials Identification

Extensive searches were made to locate relevant material from:

- academic databases;
- legal databases;
- repositories of international organizations;
- archives of government;
- databases of environmental law.

### **Keywords:**

- litigation on climate change;
- environmental justice;

- governance of climate;
- litigation based on rights;
- climate justice;
- environmental constitutionalism.

### **Stage Two: Screening and Selection**

Documents were screened for relevance, scholarly quality and contribution to the research aims. The duplicate materials and non-relevant sources were removed.

### **Stage Three: Organization and Classification**

The selected materials were categorized into thematic groups:

- climate change litigation;
- environmental equity;
- approaches to human rights;
- structures de gouvernance;
- institutional barriers;
- innovations in the courtroom.

This systematic organization provided for efficient retrieval and analysis of documentary evidence.

### **Data Analysis Approach**

The study uses several qualitative analytical techniques.

#### **1. Doctrinal Legal Research**

The doctrinal analysis consisted of the interpretation and critical analysis of:

- legislation;
- agreements;
- constitutional provisions.
- court rulings.

It allowed for the identification of legal principles, obligations and emerging jurisprudential trends concerning climate governance and environmental justice. The doctrinal approach was particularly useful in exploring the interpretation of environmental rights and the duties of governments regarding climate change by courts.

## 2. Thematic Analysis

A thematic analysis was applied to identify common themes, patterns and conceptual relationships within the literature and legal materials.

The process of analysis was divided into six steps:

1. Exploratory data analysis;
2. Initial coding.
3. Identify theme;
4. Refining theme;
5. Theme analysis;
6. Synthesis and reporting.

The key themes identified were:

- activism of the judiciary;
- sensitivity to climate;
- environmental inequities;
- governance based on rights;
- legal responsibility;
- Institutional barriers.

Thematic analysis contributed to an integrated understanding of climate litigation and environmental justice.

## 3. Comparison of Statutes

Comparative analysis was performed to explore differences and similarities across legal systems and jurisdictions. Comparison was focused on:

- constitutional means;
- legal frameworks;
- judicial reactions;
- institutional arrangements;
- environmental rights protections.

Through the comparative analysis it was possible to identify best practices and emerging trends, and showed significant disparities in access to climate justice.

## 4. Content Analysis

Content analysis entailed a systematic review of legal and policy documents.

The analysis concentrated on:

- legal terms;
- policy priorities;

- justice principles;
- governance frameworks;
- provisions for accountability.

The method allowed to recognize patterns and changes in the discourse of climate governance.

### **5. Analysis of Case Study**

The multiple case study strategy allowed for deep-dive analysis on landmark climate litigation cases. Each case was analysed with regards to:

- legal arguments;
- legal reasoning;
- environmental justice concerns;
- governance implications;
- policy results.

The case study analysis also gave useful insights into the practical functioning of climate litigation and its role in environmental governance.

### **Integration of Analytical Techniques**

The study is more comprehensive because there are several analytical methods used.

- Doctrinal analysis considers legal principles.
- Thematic analysis: identifies recurring patterns.
- Comparative analysis reveals differences among jurisdictions.
- Content analysis – policy narratives.
- Case studies add contextual richness.

These approaches collectively enable a comprehensive understanding of climate litigation and environmental justice.

### **Quality of Research and Credibility**

The study used the established qualitative criteria of trustworthiness to ensure methodological rigor.

#### **Credibility**

Credibility was increased by:

- triangulation of data sources
- use of authoritative legal materials;
- critical review of various scholarly perspectives.

#### **Trustworthiness**

Ensuring dependability was through:

- documentation in a systematic manner;
- transparent analytical processes;

- transparent methodology protocols.

### **Confirmability**

The confirmability was reinforced by:

- evidence-based interpretation;
- explicit analytic procedures,
- detail recording of decisions.

### **Transferability**

Qualitative legal studies are context dependent but their findings are relevant in a broader sense as they identify themes and governance challenges that transcend particular jurisdictions.

### **Ethical Issues**

The study is based only on publicly available documents, and therefore there was no direct human participation. However, the ethical standards were preserved by:

- accurate representation of the legal material;
- correct citation and acknowledgement of sources;
- 100% plagiarism-free;
- neutral assessment of proof;
- Maintaining academic integrity.

Researcher reflexivity was also taken into consideration to minimize interpretive bias and ensure balanced analysis.

### **Study Limitations:**

There are several limitations to note. First, the study is based solely on secondary data and therefore cannot capture the views of judges, policymakers or litigants who are directly involved in climate disputes. Second, climate governance is changing quickly, and the legal developments may change after the study is finalized. Third, there are substantial jurisdictional differences that prevent direct comparisons between legal systems. Finally, qualitative findings are context-specific and are not statistically generalizable. Despite these limitations, the study offers a broad and analytically rigorous understanding of global climate litigation and environmental justice.

### **Methodological Contribution:**

The methodology contributes to a range of fields of scholarship. It offers a systematic approach for studying emerging climate jurisprudence for environmental law. It provides comparative insights into accountability mechanisms and governance innovations for climate governance research. It demonstrates how legal institutions are engaging with broader social and environmental challenges for socio-legal studies. For environmental justice scholarship, it underscores the need to integrate issues of equity in climate governance regimes. Here is the structure and example material for a publication-worthy Findings and Discussion section of an

article based on qualitative research: Climate Change Litigation and Environmental Justice: Emerging Legal Frameworks and Global Challenges.

## Results and Discussion

Qualitative analysis suggests climate change litigation has evolved from a relatively narrow environmental regulatory tool into a transformative instrument for global climate governance and environmental justice. The findings show that courts are increasingly being used as arenas to address climate-related inequalities, holding governments and corporations to account and promoting rights-based approaches to environmental protection. But major legal and institutional barriers continue to hamper equitable climate governance and access to justice for climate-vulnerable populations. The analysis revealed five major themes.

### Theme 1: The Global Expansion of Climate Change Litigation Qualitative Result

The results show a dramatic rise in climate change litigation across jurisdictions. Climate litigation has shifted from conventional environmental cases involving pollution and regulatory enforcement to strategic lawsuits targeting government inaction, corporate accountability, human rights violations, and intergenerational justice. Across the literature and legal materials, participating instruments consistently described climate litigation as an increasingly powerful tool to shape climate governance. Courts are no longer merely arbiters of environmental disputes but are increasingly involved in environmental policymaking and climate accountability. The results also suggest the emergence of transnational climate litigation, where judicial decisions in one jurisdiction influence legal developments in others. Rights-based litigation strategies and constitutional environmental claims have gained increasing prominence as climate governance norms have become more globalized.

### Exegesis and Meaning

The emergence of climate litigation represents a fundamental shift in environmental governance. Litigation is increasingly being used as an accountability mechanism where legislative and executive action on climate change is viewed as insufficient. The findings support propositions within Rights-Based Governance Theory that argue that legal rights provide normative grounds for government accountability and environmental protection. The growing judicial recognition of environmental rights indicates that courts are increasingly important actors in climate governance. Findings further support Legal Pluralism Theory, which posits that climate governance is increasingly shaped by the interaction of international treaties, constitutional provisions, judicial decisions, and transnational legal norms.

Earlier scholarship argued that climate litigation is a new form of climate governance rather than a mechanism for dispute resolution. The current results support these claims and additionally

indicate that lawsuits are increasingly affecting policy formation, administrative processes and public debate of climate obligations. However, contrary to some literature which suggests that litigation is a universally effective governance mechanism, the results reveal considerable variation across jurisdictions and reflect differences in institutional capacities and legal traditions.

### **Legal and Policy Implications**

The findings suggest that governments should strengthen legal frameworks that can respond to climate-related claims and recognize courts as important partners in climate governance. International organizations should also promote judicial cooperation and knowledge-sharing on emerging climate jurisprudence.

## **Theme 2: Environmental Justice and Unequal Climate Risk**

### **Qualitative Result**

A dominant theme that emerged from the analysis concerns the profoundly unequal distribution of climate harms. “Vulnerable communities, indigenous peoples, small island developing states and socioeconomically marginalized groups continue to shoulder the brunt of climate impacts with little contribution to global greenhouse gas emissions.

The results suggest three interconnected dimensions of environmental injustice:

#### **Distributive Injustice**

- Disproportionate exposure to environmental harms and limited adaptive capacities.
- Inequality in Procedure Exclusion of vulnerable communities from climate decision making processes.
- Recognition injustice.
- Lack of recognition of indigenous knowledge, cultural rights and marginalisation of the historical context.

The analysis also highlights that while environmental justice issues are increasingly being recognized in climate litigation, legal remedies remain patchy and often fail to address systemic inequalities.

### **Interpretation and Meaning**

The findings provide strong evidence for Environmental Justice Theory and Climate Justice Theory, both of which stress that climate change is fundamentally an issue of equity and social justice. These findings suggest that climate litigation may be a pathway to addressing environmental inequalities and accountability. But litigation alone cannot address deeply entrenched structural injustices. The uneven burden of climate impacts also invokes fundamental questions of global responsibility and moral obligations to the vulnerable populations. Existing research shows that climate change has a disproportionate impact on marginalized communities.

The present findings extend this literature by showing that environmental justice concerns are increasingly incorporated into judicial reasoning and legal arguments. But the results also show a continuing gap between environmental justice theory and legal reality. Implications for law and policy Governments should integrate principles of environmental justice into national legislation and policy frameworks on climate change. Courts should be more inclusive in their practices, acknowledging the procedural rights and particular vulnerabilities of marginalized communities. International climate agreements should further strengthen mechanisms to protect climate vulnerable communities and to ensure equitable adaptation strategies.

### **Theme 3: Developing legal frameworks and judicial innovations**

#### **Qualitative Findings**

The findings suggest that a number of innovative legal frameworks are emerging to address climate change and environmental justice:

- constitutional recognition of environmental rights;
- climate litigation based on human rights;
- environmental constitutionalism;
- Corporate climate responsibility;
- Inter-generational rights-based approaches.

Judicial innovations are increasingly recognizing environmental protection as a constitutional and human rights duty.

Results also show an increasing application of international environmental principles and scientific evidence by courts in the decision-making process on climate-related issues.

#### **Importance and Meaning**

These developments represent a significant expansion of environmental jurisprudence and an indication of the increasing convergence of climate governance and human rights principles. The findings provide strong support for Intergenerational Equity Theory, which emphasizes obligations to future generations. The growing acknowledgment of children's rights and future generations in climate litigation is a significant jurisprudential development. The findings also provide support for Ecological Modernization Theory, indicating that institutional reforms and legal innovations can help to establish more sustainable forms of environmental governance.

#### **Relation to Prior Studies**

The findings lend support to existing scholarship on the proliferation of rights-based climate litigation and environmental constitutionalism. But they also show that legal innovations are still

very uneven across jurisdictions. Many developing countries still suffer from institutional constraints that make it difficult to adopt innovative legal approaches.

#### Implications for Law and Policy

Governments need to strengthen constitutional environmental protections and embed climate obligations into domestic legal systems.

Strengthen corporate accountability mechanisms in response to the increasing role of private actors in climate governance.

International organizations should promote harmonization of laws and judicial cooperation on rights and obligations related to climate change.

### Theme 4: Legal and Institutional Challenges

#### Qualitative Result

The analysis identified several major barriers to effective climate governance, despite significant developments.

**Standing and Justiciability:** Restrictive standing requirements that inhibit access to climate justice remain in force in many jurisdictions.

**Difficulties of Cause and Evidence:** Legally establishing causal links between specific acts and climate harms remains complicated.

**Limitations on Enforcement:** The implementation of judicial decisions is often hindered by political resistance and institutional weaknesses.

**Decentralized Governance:** Climate governance is still fragmented across legal systems and institutions.

**Obstacles to Access to Justice:** Economic disparities and procedural intricacies continue to restrict access to litigation.

**Interpretation and meaning:** The findings suggest important structural and institutional constraints to climate litigation. The findings are consistent with Legal Pluralism Theory, showing that fragmented legal frameworks can both facilitate and limit climate governance. The findings also lend further support to Climate Justice Theory by illustrating how legal barriers often reproduce existing inequalities and restrict access to justice for vulnerable groups. Many of these challenges have been identified in previous scholarships. However, the present study shows that these barriers are still very persistent despite the increasing judicial activism. The findings also indicate that access-to-justice concerns are still especially acute in developing countries and vulnerable jurisdictions.

**Implications for Policy and Law:** Legal reforms should relax standing requirements and bolster procedural protections for climate-vulnerable communities. Governments should reinforce institutional capacities and improve enforcement mechanisms. International organizations should promote capacity building initiatives and facilitate access to climate justice.

### Theme 5: Future Directions for Climate Governance and Environmental Justice

#### Finding - Qualitative

The analysis suggests a rising consensus around the need for more equitable and inclusive

climate governance frameworks.

**Several priorities emerged:**

- strengthening of environmental rights
- including principles of environmental justice;
- improving judicial cooperation;
- Enhancing accountability mechanisms
- promoting inclusive policy making.

The results also indicate growing support for transnational cooperation and global legal standards for climate obligations.

**Interpretation and Meaning:** The findings indicate that future climate governance will have to transcend narrow regulatory approaches and integrate broader justice and equity principles. The findings support the Environmental Justice Theory and Rights-Based Governance Theory that effective climate governance depends on meaningful participation, recognition of vulnerabilities and protection of environmental rights. Justice-based climate governance frameworks have increasingly been called for in previous studies. Our findings support these recommendations and also indicate that legal institutions will continue to play a key role in shaping future climate responses.

**Legal and Policy Implications:** Governments must enact justice-based climate policies that put vulnerable populations first. Judicial institutions should continue to develop innovative approaches that can respond to emerging climate challenges. International organizations should facilitate the integration of principles of environmental justice in international climate governance arrangements and promote greater legal cooperation.

**Summary of findings:**

In sum, the findings demonstrate that climate change litigation has developed into an increasingly powerful tool of environmental governance and environmental justice. Litigation has increased opportunities for accountability, enhanced rights-based approaches and helped develop innovative legal frameworks. But serious barriers remain there including institutional fragmentation and unequal access to justice, evidentiary issues and continuing environmental inequities.

The findings contribute to scholarship on environmental law by showing that climate litigation is no longer a purely legal response to environmental harm but has become a major tool of global climate governance and social justice. The results also highlight the need to incorporate principles of environmental justice into future legal frameworks and climate policies. The quest for just climate governance, in the end, demands more than improved legal mechanisms but rather a profound commitment to justice, inclusion and intergenerational responsibility. Whether in the future climate litigation will be effective will depend on its ability to respond to the needs of climate-vulnerable communities and to foster more accountable, equitable and sustainable forms of worldwide environmental governance.

The findings of this qualitative study suggest that climate litigation has evolved in terms of both scope and goal. Increasingly, today's climate cases are not traditional environmental disputes but powerful tools to hold governments accountable, corporations responsible and to recognize climate-related human rights. The rise of rights-based litigation shows that courts are increasingly ready to interpret constitutional rights, environmental rights, and international human rights obligations in the climate change context. Courts across the globe have laid down significant precedents confirming the legal and ethical responsibilities of states and corporations to address climate risks and safeguard vulnerable communities.

But the findings also demonstrate that the transformative potential of climate litigation remains limited by substantial institutional and structural barriers. The success of legal interventions often depends on the political will of governments, the independence of judicial institutions and availability of accessible legal mechanisms. Access to environmental justice is still hindered in many jurisdictions, especially in developing countries and climate-vulnerable regions, due to procedural barriers, financial limitations, weak regulatory systems and limited legal capacities. As a result, while climate litigation has made significant normative advances, it has not yet been able to overcome the deep inequalities that characterize the global climate crisis.

The study also indicates that environmental justice issues have grown significantly in importance in modern climate litigation. Climate change is not a threat that affects everyone equally. It has the greatest negative impact on communities that have contributed the least to greenhouse gas emissions, including Indigenous peoples, low-income communities, women, children and populations in the Global South. The increase in justice-oriented litigation points to an increasing awareness that climate governance cannot be reduced to emissions reductions issues. Instead, the effective governance of climate change requires an explicit commitment to distributive justice, procedural fairness, and recognition of historically marginalized communities. In theory, this research makes an important contribution to the development of Environmental Justice Theory by demonstrating that climate litigation can be an important mechanism for addressing distributive and procedural inequities. The results support the claim that environmental harms and benefits are unequally distributed, and that fair participation in environmental decision-making continues to be a prerequisite for justice. Furthermore, the study contributes to the development of Climate Justice Theory by demonstrating that climate litigation is increasingly being used as a legal and political instrument to address global inequalities and challenge asymmetrical distributions of responsibility and vulnerability.

The research also advances the Rights-Based Governance Theory by showing that judicial protection of environmental and climate rights has profoundly transformed the climate governance architecture. Courts increasingly frame climate change as a human rights issue, extending the normative frontiers of environmental law and opening new pathways to accountability. Likewise, the study adds to the Legal Pluralism Theory by showing how domestic legal systems, international environmental agreements, constitutional provisions, and transnational legal principles are increasingly intertwined in the development of climate jurisprudence. The results further provide support for Intergenerational Equity Theory by demonstrating that climate litigation has emerged

as a significant tool for safeguarding the interests of future generations and integrating long-term environmental stewardship into legal systems.

The findings show that policymakers and legislators need to address the underlying social inequalities for climate policies to be legitimate and effective in the long term. The principles of procedural inclusion, distributive fairness and community participation should underpin the frameworks for climate governance. Environmental advocacy groups and civil society organizations also have an important role to play in mobilizing communities, raising legal awareness and strengthening participatory environmental governance. It is also for international organizations to promote greater legal cooperation, support capacity-building initiatives in developing countries and facilitate the dissemination of successful climate litigation strategies across jurisdictions.

## Conclusion

Climate change has become one of the most serious existential challenges for humankind, fundamentally altering the relationship between environmental governance, human rights and global justice. Climate change litigation has thus become a key tool in the establishment of environmental accountability, the crafting of public policy and the safeguarding of the rights of present and future generations. Concurrently, environmental justice has emerged as a crucial normative framework for grasping the uneven distribution of climate harms and the structural vulnerabilities of marginalized populations. In this context, the present study aims at a critical analysis of the connections between climate change litigation and environmental justice by looking at developing legal frameworks, judicial reactions and the global challenges that still hinder just climate governance.

The practical and policy implications of this study are important. The results indicate an urgent need for national governments to enact comprehensive climate legislation that explicitly incorporates principles of environmental justice and human rights protection. Governments need to go beyond symbolic commitments and put in place legally enforceable measures that protect vulnerable populations and ensure equitable adaptation and mitigation strategies. The study highlights the growing significance of judicial leadership in addressing climate change for courts and judicial institutions. Courts have significant potential to advance climate accountability by reinforcing environmental rights, fostering transparency in government, and assuring compliance with the legal duties of public authorities. Judicial institutions should therefore continue their progressive and rights-based interpretations of environmental law, while facilitating more general access to justice.

In short, climate change litigation has become a defining feature of contemporary environmental governance, and an increasingly important mechanism for promoting accountability, protecting human rights and advancing environmental justice. But litigation alone won't address the structural and political complexities of the climate crisis. Ultimately, the pursuit of climate justice demands legal systems that are inclusive, equitable, rights-based and globally coordinated. Hence,

environmental justice needs to be central to future climate governance frameworks, not as an afterthought, but as a fundamental principle guiding legal and policy responses to climate change. As the impacts of climate change deepen, the success of global climate governance and humanity's collective ability to safeguard the dignity, well-being and environmental rights of present and future generations will hinge on the development of strong and justice-focused legal frameworks.

### **Recommendations & Way Forward:**

The findings of this study lead to a number of recommendations. First, environmental justice principles should be systematically integrated into national and international climate laws to ensure the adequate protection of vulnerable populations. Second, access to environmental justice mechanisms must be broadened by reducing procedural barriers, strengthening legal aid services and increasing the availability of public interest litigation. Thirdly, international cooperation on climate governance should be enhanced by boosting judicial dialogue, sharing knowledge and harmonising environmental standards. Fourth, rights-based climate policies should be promoted by governments and international institutions that explicitly recognize environmental rights and climate-related human rights obligations. Fifth, more robust mechanisms of corporate environmental accountability are needed to ensure private actors assume meaningful responsibilities for climate mitigation and adaptation. Lastly, future legal regimes should increasingly incorporate principles of climate justice, intergenerational responsibilities and rights of marginalized communities.

This study has several limitations despite its contributions. The study was largely based on secondary qualitative data and documentary analysis, which necessarily limited the extent to which it could encapsulate the lived realities of affected communities and the on-the-ground application of judicial decisions. Further, the variation of legal systems, and contextual differences between jurisdictions, limits the generalizability of the findings. Climate governance and environmental law are also rapidly evolving fields, and the legal landscape may be significantly altered by new judicial decisions, legislative reforms and international agreements. The findings of this study should therefore be viewed in the dynamic and evolving context of global climate governance.

These limitations also suggest important directions for future research. A comparative empirical study of climate litigation across legal traditions and political systems would be an important contribution to understanding the factors that enable or constrain successful litigation outcomes. Further research is needed to investigate the tangible effects of climate litigation on environmental justice outcomes, especially in the context of developing countries and the Global South where climate vulnerabilities are often most acute. More research is needed on corporate climate accountability, the emerging legal rights of future generations and nature, and the impact of rights-based approaches in addressing climate inequalities. Moreover, interdisciplinary research that brings together legal scholarship with political science, sociology, economics and environmental sciences is essential for developing more comprehensive and effective responses to climate crisis.

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